



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901

Sent via email only

November 1, 2021

The Honorable Steven R. Lewis
Governor, Gila River Indian Community
525 West Gu u Ki
P.O. Box 97
Sacaton, Arizona 85147

Subject: Government-to-Government Consultation on the Florence Copper, Inc. Application for an Underground Injection Control (UIC) Permit

Dear Governor Lewis,

Thank you for your correspondence dated October 5, 2021 accepting EPA's offer to consult with the Gila River Indian Community on the subject UIC permit application. Our staffs convened a scoping meeting on October 27, and this letter captures our shared understanding of the next steps and schedule, and initiates government-to-government consultation in accordance with EPA's *Policy on Consultation and Coordination with Indian Tribes*.¹

I regret we are unable to meet in person under current public health conditions, but look forward to engaging with you via teleconference which is being scheduled by our staffs. Please reference the enclosed summary and consultation schedule, and don't hesitate to contact me at (415) 972-3337 if you have any questions.

Sincerely,

Tomás Torres, Director
Water Division

cc: Javier Ramos, Gila River Indian Community Legal Counsel
Barnaby Lewis, Gila River Indian Community Tribal Historic Preservation Officer
Ryan Eberle, Gila River Indian Community Acting Environmental Director

¹ See <https://www.epa.gov/tribal/epa-policy-consultation-and-coordination-indian-tribes>

Consultation and Coordination Plan
Gila River Indian Community – Florence Copper, Inc. UIC Permit Application

Background information on the proposed project

In October 2019, Florence Copper, Inc. (FCI) submitted an application to the Environmental Protection Agency, Region IX (EPA) for a Class III Underground Injection Control (UIC) permit to authorize construction and operation of a full-scale in-situ copper recovery (ISCR) project. EPA determined that a decision on this application had the potential to affect the interests of neighboring federally recognized tribes and offered government-to-government consultation with the Gila River Indian Community. In addition, due to the potential for adverse effects to historic properties as a result of the proposed project, EPA offered the Gila River Indian Community an opportunity to consult under Section 106 of the National Historic Preservation Act (NHPA) on the potential adverse effects and measures to avoid, minimize, and mitigate these effects. The Community accepted EPA's NHPA consultation offer, and we are continuing to consult under the Section 106 process. The Gila River Indian Community also accepted EPA's invitation for government-to-government consultation on FCI's UIC permit application by a signed letter from the Governor of the Community on October 5, 2021.

Opportunities for Gila River Indian Community to participate

EPA expects to provide a draft copy of the Class III UIC permit under consideration for the proposed project to the Gila River Indian Community in mid/late November 2021, concurrent with our release of the draft permit to FCI and to the Arizona Department of Environmental Quality (ADEQ) for review. EPA will provide the draft permit for review by the Community in advance of the virtual government-to-government consultation meeting. The table below lays out the process and timeline for scheduling a virtual government-to-government consultation meeting and coordination on next steps developed between EPA and the Gila River Indian Community.

Tribal Consultation and Coordination Process and Timeline

Contacts

<i>Gila River Indian Community</i>	<i>EPA Region IX</i>
Governor Steven R. Lewis Steven.Lewis@gric.nsn.us	Tomás Torres, Director Water Division Torres.Tomas@epa.gov
Scheduling and Coordination Javier Ramos, Legal Counsel Javier.Ramos@gric.nsn.us	Scheduling and Coordination Nancy Rumrill, UIC Permit Engineer Rumrill.Nancy@epa.gov
Ian Shavitz, Legal Counsel Lippes Mathias Wexler Friedman LLP	David Albright, Manager Groundwater Protection Section

Ishavitz@lippes.com	Albright.David@epa.gov Janet Magnuson, Assistant Regional Counsel Magnuson.Janet@epa.gov Dustin Minor, Assistant Regional Counsel Minor.Dustin@epa.gov
--	--

Consultation Schedule

Date	Event	Contacts/Participants
February 4, 2020 Completed	EPA's "offer to consult" letter to Governor Lewis regarding FCI's UIC permit application.	EPA: Tomás Torres
October 5, 2021 Completed	Governor Lewis's letter to EPA accepting consultation offer.	Gila River Indian Community: Governor Steven R. Lewis
October 27, 2021 Completed	Consultation scoping conference	Gila River Indian Community: Javier Ramos, Ian Shavitz EPA: Loretta Vanegas, Janet Magnuson, Nancy Rumrill, David Albright
November 2021 (mid/late Nov.)	EPA provides a draft copy of the Class III UIC permit under consideration for the proposed FCI ISCR project to the Gila River Indian Community.	EPA: Nancy Rumrill/David Albright Gila River Indian Community: Javier Ramos
November/December 2021 (TBD)	Consultation virtual meeting: Gila River Indian Community leadership provides information relevant to EPA's action on FCI's Class III UIC permit application/draft permit.	EPA: Tomás Torres Gila River Indian Community: Governor Steven R. Lewis, Tribal Councilmembers from Litigation and Cultural Resources Committees, and Specific Community Departments Scheduling and Coordination: EPA: Nancy Rumrill, David Albright Gila River Indian Community: Javier Ramos
This table will be updated with potential next steps based on the outcomes of the leader-to-leader discussion		
TBD	EPA emails signed letter to Governor Lewis regarding how EPA considered Gila River Indian Community's input on its UIC permit decision.	EPA: Tomás Torres